



**Special Education Advisory Committee
(SEAC)
Policies, Practices, and Procedures
Subcommittee**

**(Proposed) Policy 5310:
Special Education
Review, Findings, and Recommendations Report**

Prepared For:
SEAC Membership
Loudoun County School Board

June 15, 2020

Summary of SEAC's Recommendations

To address community concerns, the following recommendations were systematically and thoroughly envisioned.

Recommendation 1: Permit IEP amendments without an IEP meeting addressing community concerns.

Recommendation 2: Protect the participation roles of parents and teachers in the IEP process by requiring that they be the ones who develop any IEP amendment.

Add new item 1: The document shall be developed by the parent(s)/guardian(s) of the child and the Special Education case manager of the child in consultation with other members of the IEP team.

Line 33 Remove: "LCPS representatives and"

Add: "and the Special Education case manager of the child in consultation with other members of the IEP team"

Line 34 Add: At any time, either party may request an IEP meeting.

Move item 3 to line 34: "This process is not a substitute for the required annual IEP meeting."

Recommendation 3: Require IEP amendment notifications for teachers.

Add: "and the teachers of the child" to the parties informed of changes.

Recommendation 4: Require providing an updated IEP with changes indicated

Remove from item 3: "upon request, a"

Add: "with every change clearly indicated within the document"

Recommendation 5: Require equity supports for parents.

Add New 4: "LCPS shall take whatever action is necessary to ensure that the parent(s)/guardian(s) understand and are able to participate in any discussions relating to the IEP amendment and are able to understand any documents produced before consenting to them. This includes arranging for other modes of communication for parents with disabilities (e.g., interpreters, Braille), or whose native language is other than English."

Recommendation 6: Add New Item 5: "Prior Written Notice shall be provided prior to requesting parental consent."

SPECIAL EDUCATION

It is the policy of Loudoun County Public Schools ("LCPS") to adhere to federal and state regulations as they have been promulgated by the United States Department of Education and the Virginia Board of Education to implement special education programs for children with disabilities, consistent with the Individuals with Disabilities Education Act ("IDEA"). Specifically, these mandates are detailed in the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (Virginia Regulations) and any additional documents that the Virginia Department of Education publishes to address federal and state statutes and regulations for delivering special education and related services to children.

LCPS uses the classification of developmental delay for the detection of students with disabilities for IDEA eligibility. This means a disability affecting a child ages two by September 30 through six inclusive. In furtherance of this policy, LCPS will provide a free and appropriate public education to all children with disabilities, ages 2 through 21, inclusive, residing in Loudoun County.

LCPS prohibits the harassment of children with disabilities in academic and nonacademic settings during the school day and for school-sponsored extracurricular activities.

~~If a child's Individualized Education Program ("IEP") needs amendment after a child's school year, an IEP team meeting shall be scheduled to make the changes.~~

Parents and guardians are important partners with LCPS in its mission to provide children with disabilities a free and appropriate public education. LCPS values the role of a parent(s)/guardian(s) in the development of a child's **Individualized Education Program (IEP)** and school staff will take steps to ensure that a parent(s)/guardian(s) of a child with a disability is present, or is afforded the opportunity to participate, in each child study, eligibility, and IEP meeting held for their child. During the development, review, and/or revision of a child's IEP, the input of the child's parent(s)/guardian(s) for enhancing the education of their child will be considered by the IEP team.

When making changes to a child's IEP after the annual IEP meeting for the school year, an IEP team meeting may be scheduled to make the changes.

~~LCPS representatives and~~ Parent(s)/guardian(s) and the Special Education case manager of the child in consultation with other members of the IEP team may agree to develop a written document to amend or modify the child's current IEP without

convening an IEP meeting. At any time during this process either party may request an IEP meeting. This process is not a substitute for the required annual IEP meeting.

The following shall be required:

1. The written document shall be developed by the parents(s)/guardians and case manager of the child in consultation with other members of the IEP team.
2. If changes are made to the child's IEP, LCPS shall ensure that the child's IEP team and teachers of the child are is informed of those changes.
3. ~~Upon request,~~ a Parent(s)/guardian(s) shall be provided with a revised copy of the IEP with the amendments incorporated. Every change to the IEP shall be clearly indicated within the document.
4. LCPS shall take whatever action is necessary to ensure that the parent(s)/guardian(s) understand and are able to participate in any discussions relating to the IEP amendment and are able to understand any documents produced before consenting to them. This includes arranging for other modes of communication for parents with disabilities (e.g., interpreters, Braille), or whose native language is other than English.
5. Prior Written Notice shall be provided prior to requesting parental consent.
6. Written parental/guardian consent shall be obtained prior to implementation of any amendment to a child's IEP.

[Former Policy 5-52] Adopted:
8/11/70 Revised: 9/8/81, 6/22/93,
10/13/09 Current Revision: 4/23/19

Leg Refs: 8VAC20-81-30.A, 8VAC20-81-230.B.1A, 8VAC20-81-80.M, 8VAC20-81-100.N, 34 CFR 300 .322(e), 34 CFR 300.324(a)(4) and (6), 8 VAC 20-81-110 B.9

1. Introduction

a. Policy, Practices, and Procedures Subcommittee

The Regulations Governing Special Education Programs for Children with Disabilities in Virginia reflect the state and federal requirements for the provision of special education and related services. The regulations outline the functions of the SEAC, as specified by Section 8VAC20-81-230 (D)(2), and are as follows:

1. Advise the local school division of needs in the education of students with disabilities;
2. Participate in the development of priorities and strategies for meeting the identified needs of students with disabilities;
3. Submit periodic reports and recommendations regarding the education of students with disabilities to the division superintendent for transmission to the local school board;
4. Assist the local school division in interpreting plans to the community for meeting the special needs of students with disabilities for educational services;
5. Review the policies and procedures for the provision of special education and related services prior to submission to the local school board; and
6. Participate in the review of the local school division's annual plan.

This report satisfies requirements 1, 2, and 5 above as set forth by the Individuals with Disabilities Education Act (IDEA) and the Regulations Governing Special Education Programs for Children with Disabilities in Virginia.

SEAC created a Policies, Practices and Procedures subcommittee to review and provide advice to the School Board on whether and how policies, practices and procedures meet the needs in the education of children with disabilities. The subcommittee was established by a vote of the SEAC membership in October of 2018 as part of the recommendations included in SEAC's 2017-2018 Annual Report. The subcommittee's tasks include:

Recommendation 1A: Establish and use a workflow to introduce and provide SEAC with special education policies, practices, and procedures that are new, require periodic review, or revised to enable SEAC to complete a thorough review in a reasonable timeframe (given that SEAC meets monthly) and provide input prior to submission to the School Board.

This report includes findings and recommendations to the Loudoun County School Board. The recommendations were developed as a collaborative process that included input from the SEAC membership and school staff. Recommendations were adopted by a vote by a quorum of the full committee.

b. Disclaimer: Not Legal Advice, Seek Competent Counsel

Some of the concerns raised by the subcommittee are not only questions of educational policy and right and wrong, but also questions of compliance with federal and state laws and regulations based on our research and understanding. It is our understanding that SEAC can express concerns about compliance and refer to laws and regulations as a basis for those concerns.

We strongly recommend that the School Board discuss compliance concerns directly with competent counsel. It is our understanding that neither SEAC nor all non-attorney LCPS staff may provide legal advice.

Nothing in this document should be taken as legal advice. All law, including disability and Special Education law, is complex and often fact-specific, and questions can only be definitively answered through a final decision. Different attorneys may reach different opinions.

The United States Department of Education's Office for Civil Rights provides assistance with understanding and complying with obligations under Section 504 of the Rehabilitation Act and the ADA. They can be reached at (202) 453-6020. The Virginia Department of Education provides assistance with understanding and complying with obligations under the IDEA and Virginia's implementing regulations.

c. History of Consideration of the Issue

The subcommittee met to consider a previous proposed draft of this policy between November 2018 and March 2019, and developed a set of proposed recommendations that were presented to the full committee and discussed at the February 6, March 6, and April 3, 2019 SEAC meetings. In response to SEAC's discussions and votes, the LCPS staff revised their draft, and LCPS was able to reach a final recommendation that the School Board adopt the revised draft.

One of the Policy subcommittee's recommendations to the SEAC was to, "Add language to the policy to allow IEP amendments without convening an IEP meeting." The full SEAC membership discussed this recommendation and voted to reject this recommendation. Thus, the SEAC's position was to oppose permitting IEP amendments without an IEP meeting. Persuasive arguments included the following:

1. It would be difficult for LCPS to meet its obligation under the IDEA to ensure meaningful participation in all aspects of the administrative process.
2. The whole IEP should be considered by all stakeholders.
3. Convening an IEP meeting should not be a burden.

These arguments came from LCPS staff, who also opposed permitting IEP amendments without an IEP meeting. Staff expressed to the SEAC membership that they had already prohibited such amendments. This was an unwritten "practice" that was implemented by administration. Nonetheless, a majority of the votes agreed with the staff's position on this issue. Policy 5310 was amended by the LCPS School Board on April 23, 2019.

On March 13, 2020, the Virginia Governor ordered all K-12 schools closed for two weeks. On March 23, this was followed by Executive Order Number Fifty-Three (EO-53), which ordered, "2. Cessation of all in-person instruction at K-12 schools, public and private, for the remainder of the 2019-2020 school year."

LCPS staff responded to the sudden change of instructional setting by sending a letter to parents. Highlights of this letter include:

1. IEPs will not be implemented for the remainder of the 2019-20 school year.
2. LCPS will write and send to parents a "Temporary Distance Learning Plan" (TDLP) describing a much lower level of service that LCPS will offer.
3. Parents must consent to the TDLP in order for the student to receive those services. If parents do not consent, the student receives no services.

The SEAC Executive Committee and members of the community expressed many concerns about the TDLPs. It is unclear that these LCPS actions are compliant with applicable bodies of law such as the IDEA and Section 504 of the Rehabilitation Act. There is significant concern that these actions by the LCPS violate the spirit and intent of these laws, the School Board's policies, and repeated statements by the current School Board that they support equity for all students.

On May 13, 2020, proposed revisions to Policy 5310 were provided to the SEAC Chair and submitted to the School Board's Student Support & Services (SSS) committee. It was brought to SEAC Chair's attention by the School Board Liaison that the staff had submitted the revisions to the SSS Committee. SEAC expressed concerns that it had not been given the opportunity to review the policy prior to the staff submitting the policy to the School Board, as required by the Virginia implementing regulations.

The LCPS Staff Liaison shared with the SEAC Chair, "The recommended revisions to Policy 5310 will allow families and school teams needed flexibility, as afforded by VA Regulation and IDEA pre-Covid-19, around IEP team meetings. Specifically, if distance learning is extended into next school year, it is likely that every IEP will need to be reviewed and potentially amended. Given the rapidly COVID-19 evolving situation and large volume of contacts that will need to take place to prepare for FY21, we want to prepare now and provide the flexibility for parents/guardians and school teams."

The SSS Committee agreed to send Policy 5310 to SEAC for review and recommendations before submitting to the school board. On June 6, 2020 the SEAC Policy Committee met to review and agree upon recommended changes. SEAC met on June 10, 2020 to review the recommendations of the Policy Committee and vote on proposed recommendations.

2. Special Education Community Concerns

a. Parents are concerned the changes to the policy do not adhere to state and Federal laws with the IEP process.

Parents are concerned that the policy changes do not include a Prior Written Notice. A PWN is required after the school proposal BEFORE the parent is asked to sign the amendment.

Per VA regulations, SEAC is to review and make impacts the special education community prior to being submitted to the school recommendations on policy that board. Administration is working to bypass SEAC and the voice of the special education community.

Parents are requesting that the exact regulations pertaining to the IEP process be included in the policy regarding parent approval for amending an IEP without convening for an IEP meeting.

Parents fear the wording of the policy is a breach of civil rights.

Parents need to be given written notice of all changes and sufficient time to review it before approving any such amendment

Many parents already do not understand their rights pertaining to the IEP process or have other hurdles such as language barriers and this change will further that divide.

There is concern about using the term “may”. Parents have expressed concern and would like the term removed from the policy.

b. Parents fear the proposed changes are removing parent involvement and the ability to advocate for their child.

Parents fear that the wording of the proposed changes allows LCPS to make changes to their child’s IEP unilaterally and not include the parents input or consent.

Parents fear that the wording of the proposed changes not only allows LCPS to make changes without parent input or consent, but only provides the parent the changes AFTER parent requests.

Parents are concerned about the language shifting between “LCPS” and “IEP Team”. LCPS is not defined on who that is. LCPS cannot create amendments but IEP teams can.

Parents are concerned that the proposed changes leave parents in a less optimal and possibly less equitable position of advocacy.

Parents are concerned about predetermination if LCPS is going to “let the team know”

Parents have voiced concerns that their written input is not included in “*The concerns of*

the parent(s) for enhancing the education of their child" section of their child's IEP. They have been told that their concerns will be placed in another file which is not included directly in the IEP, or their concerns have been summarized and changed before being included in the IEP. Parents state that this is an effort by LCPS to silence the parent voice.

Parents are also concerned that if "any parent who doesn't go along with whatever LCPS proposes, is viewed as "difficult" and things are dragged out."

c. Parents are concerned the proposed changes to Policy 5310 are due to Temporary Distance Learning Plans

Parents do not feel that TDLPs were a collaborative document.

Parents have requested that changes are not made at this time due to the amount of amendments being made moving forward as students IEPs are needing modifications due to distance learning or because regressions have occurred during this time.

Parents are concerned as to the timing of the proposed changes or why changes are being proposed when this same policy was recently updated. Parents want an explanation why Policy 5310 is being updated. The special education community believes an explanation would help people understand why without automatically assuming it is for nefarious reasons.

3. Findings

The Policy, Practices, and Procedures Subcommittee found that the proposed policy does not meet the needs of Special Education Students.

The Education for All Handicapped Children Act (EHACA) and its successor, the Individuals with Disabilities Education Act (IDEA), is an equity program to provide funding and a mandate that all public schools accepting federal funds provide students with qualifying disabilities the opportunity to receive a Free Appropriate Public Education (FAPE).

The design concept of the IDEA is a partnership between parents and teachers, with written records used to help the parties document and communicate their understandings. Key concepts include meaningful parental participation, the IEP Team and IEP meetings, and Prior Written Notice. Each are subjects with a complexity and history beyond the scope of this document, but a brief familiarization is helpful for discussion and understanding of our findings.

a. Meaningful parental participation

Of the EHACA, the Senate conference report documented that,

“By changing the language [...] to emphasize the process of parent and child involvement and to provide a written record of reasonable expectations, the Committee intends to clarify that such individualized planning conferences are a way to provide parent involvement and protection to assure that appropriate services are provided to a handicapped child” [USS75]

In *Hendrick Hudson Dist. Bd. Of Ed. v. Rowley*, the Supreme Court opined that,

“It seems to us no exaggeration to say that Congress placed every bit as much emphasis upon compliance with procedures giving parents and guardians a large measure of participation at every stage of the administrative process [...] as it did upon the measurement of the resulting IEP against a substantive standard.”

In the IDEA 2004 Findings [20 USC 33 S1400], Congress found that,

“Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by ... strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home”

Regulatory guidance and legal precedent has further clarified that parental participation must be meaningful. This is a complex distinction, but for purposes of this document can be simplified to ensuring that the parents are treated as peers or equal partners, including understanding the proceedings and discussion and having equal ability to contribute their input, rather than their involvement being treated as a check-box.

b. The IEP team and IEP meetings

The IEP team is a group of people, intended to contain at least the key stakeholders in a student's education, who are intended to work together as equals to develop an IEP for the student.

The Virginia regulations define the IEP team as:

- a. The parent(s) of the child;
- b. Not less than one regular education teacher of the child (if the child is or may be participating in the regular educational environment);
- c. Not less than one special education teacher of the child [...]
- d. A representative of the local educational agency [...]
- e. An individual who can interpret the instructional implications of evaluation results. This individual may be a member of the team serving in another capacity, other than the parent of the child;
- f. [...] other individuals who have knowledge or special expertise regarding the child, including related services personnel, as appropriate.
- g. Whenever appropriate, the child. [8VAC20-81-110]

The minimum procedurally compliant IEP team could consist of four people. The IEP minimum procedurally compliant team is a parent-teacher conference, plus an administrator or supervisor. The intent of the IDEA was for this to be a more formal P/T conference, and not a burden on the parties.

In recent years, SEAC has received numerous reports that it takes a very long (and non-compliant) time to schedule IEP meetings, that LCPS often brings supervisors and administrators to meetings who often dominate the meeting and bully both parents and teachers, and that what was supposed to be a collaborative parent/teacher conference have now become long, contentious, and often hostile meetings.

The Virginia regulations specify numerous procedural requirements for IEP meetings. These include a compliant meeting notice [8VAC20-81-110] and the right to make an audio recording of the meeting [8VAC20-81-170]. All of these are specific requirements based on the same underlying concept that parents have the right to understand and meaningfully participate in the IEP meetings.

c. Prior Written Notice

A PWN is a document, required by the IDEA implementing regulations, that provides parent(s)/guardian(s) with a standardized set of information to help them understand the proceedings, what decisions were made, how and why they were made, and therefore what is being proposed. In particular, it documents and communicates what parents are being asked to give their informed consent to. The regulations require that the PWN be

given to the parents before LCPS proposes or refuses to make changes, and that they be understandable by the parents.

1. Prior written notice shall be given to the parent(s) of a child with a disability within a reasonable time before the local educational agency: (34 CFR 300.503(a))
 - a. Proposes to initiate or change the identification, evaluation, or educational placement (including graduation with a standard or advanced studies diploma) of the child, or the provision of a free appropriate public education for the child; or
 - b. Refuses to initiate or change the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education for the child.

[...]

3. a. The notice shall be: (i) written in language understandable to the general public; and (ii) provided in the native language of the parent(s) or other mode of communication used by the parent(s), unless it is clearly not feasible to do so. (34 CFR 300.503(c))
- b. If the native language or other mode of communication of the parent(s) is not a written language, the local educational agency shall take steps to ensure that:
 - (1) The notice is translated orally or by other means to the parent(s) in their native language or other mode of communication;
 - (2) The parent(s) understand the content of the notice; and
 - (3) There is written evidence that the requirements of subdivisions (1) and (2) of this subdivision have been met. [8VAC20-81-170, C]

The Virginia Regulations' Procedural Safeguards [8VAC20-81-170, E] state that "Informed parental consent is required before" a set of changes including, "d. Any revision to the child's IEP services." LCPS staff often use the phrase "parental consent," omitting the regulatory language's deliberate use of "informed".

The United States Department of Education's Office of Special Education Programs' guidance on PWNs includes that, "parental consent cannot be obtained without the requisite prior written notice." [VDOE13]

The Virginia Department of Education's guidance on PWNs concludes that, "it is reasonable to determine from this commentary that OSEP intended that informed consent be preceded by the provision of prior written notice in all cases." [VDOE13]

4. Recommendations

Recommendation 1: Permit IEP amendments without an IEP meeting addressing community concerns.

Disposition: Approved by a majority (8-3-0).

Rationale:

At the March 6, 2019 SEAC meeting, the SEAC Voting Membership voted against allowing IEP amendments without a meeting. This was in agreement with the position of the LCPS staff and was accepted by the School Board through their vote to accept the draft Policy 5310 on April 23, 2019.

Due to recent unprecedented events, the LCPS requested to revise this policy because they believe that they now require the additional flexibility that would be created by allowing such amendments.

The Special Education community and SEAC have serious concerns related to this issue. Our recent experience with the Temporary Distance Learning Plans shows that many of the concerns that led both SEAC and staff to oppose permitting IEP amendments in the past are not merely hypothetical. Nonetheless, SEAC understands additional flexibility could be beneficial for parents and LCPS. SEAC believes that we can support permitting IEP amendments without an IEP meeting, but only if reasonable steps are taken to address the community concerns based on what has already happened.

Recommendation 2: Protect the participation roles of parents and teachers in the IEP process by requiring that they be the ones who develop any IEP amendment.

Add item 1: The document shall be developed by the parent(s)/guardian(s) of the child and the Special Education case manager of the child in consultation with other members of the IEP team.

Remove: "LCPS representatives and"

Add: "and the Special Education case manager of the child"

Move item 3 to line 34: "This process is not a substitute for the required annual IEP meeting."

Add: At any time, either party may request an IEP meeting.

Disposition: Approved unanimously (as amended).

Rationale:

The draft policy provided by LCPS states that development of an IEP amendment without an IEP meeting may be performed if agreed to by "LCPS representatives and Parent(s)/guardian(s)". However, what is not specified is who (LCPS representatives) develops the document, now that an IEP team is not being convened.

There are many community concerns, based on recent experiences with TDLPs, that parents would be excluded from the development process if not explicitly protected. There is also concern that the teachers could be excluded from the development process if not explicitly protected. The parent(s) or guardian(s) of the child and the teachers of the child are the persons who actually know the child and have first-hand knowledge of the child's needs. It is explicit in the IDEA, and well established in education, that parents and teachers are the most appropriate parties to make educational decisions, and LCPS staff have repeatedly shared this sentiment.

There was concern in the subcommittee that the staff's proposed language would allow LCPS administrators or staff who do not know the child to write the proposed IEP amendment. There has been a lack of transparency about how and by whom TDLPs were developed. In a contingency situation where over 9,000 IEPs might need to be amended quickly, there could be a great deal of pressure to do things quickly instead of doing what is educationally right.

SEAC recommends that the School Board, as a local policy decision, explicitly require and protect the participation of parents and teachers in the IEP process by requiring that they be the ones who develop any IEP amendments.

In the SEAC meeting discussion of this issue, a concern was raised by the LCPS staff that there are situations where an LCPS staffer who is not the Special Education case manager, such as a Speech-Language Pathologist or an Occupational Therapist, would be the LCPS person initiating a change and/or better able to develop the proposed change. On this basis, the staff disagreed with requiring that the teacher be required. However, IEP amendments should never be made without someone being responsible for ensuring that the entire IEP, as a whole, is implementable and is appropriate to meet the student's individualized needs. The subcommittee's recommendation was intended to protect the roles of parents and teachers but was not intended to exclude others from participation. In order to address the staff's concern, SEAC amended the subcommittee's recommended language to permit other members of the IEP team to also be included.

Recommendation 3: Require update notifications for teachers

Add: "and the teachers of the child" to the parties informed of changes.

Disposition: Approved unanimously.

Rationale:

SEAC has received numerous reports that many of the teachers who educate a student do not follow the student's IEPs. One of the identified reasons for that is that teachers are often not aware of the student's IEP and its contents.

Teachers are required to implement a student's current IEP at all times. They must be notified of changes to the IEP so that they are able to determine if they need to change what they are doing.

Recommendation 4: Require providing an updated IEP with changes indicated.

Remove: “upon request, a”

Add: “with every change clearly indicated within the document”

Disposition: Approved unanimously.

Rationale:

The community expressed concerns that they would have to request an IEP document with the amendment’s changes, and concerns about being asked for their informed consent to a document without a clear understanding of the changes being proposed.

SEAC has consistently received community feedback that LCPS needs to clearly identify proposed changes to IEPs. Parents currently have to make word-by-word comparisons of long (20-30 page) documents looking for changes. SEAC has received numerous reports of LCPS making undiscussed and undocumented changes to IEP drafts between IEP meetings, and between what was the agreed upon wording in IEP meetings, and the document later presented for parent’s “informed consent.” This ongoing pattern of actions by LCPS staff does not promote trust and transparency.

Clearly marking the changes in the IEP document will also help student’s teachers and other school staff quickly and easily identify the changes. In a situation where many IEP amendments might be required (for example, in a change of instructional setting where most of 9,000 IEPs might need to be amended), this would also help reduce the burden on our teachers who are required to read and implement all of the current IEPs for their students.

Recommendation 5: Require equity supports for parent(s)/guardian(s).

Add: “LCPS shall take whatever action is necessary to ensure that the parent(s)/guardian(s) understand and are able to participate in any discussions relating to the IEP amendment and are able to understand any documents produced before consenting to them. This includes arranging for other modes of communication for parents with disabilities (e.g., interpreters, Braille), or whose native language is other than English.”

Disposition: Approved unanimously.

Rationale:

The IDEA and ADA require LCPS to provide equity supports to parents that ensure that they are able to understand and participate in all aspects of the administrative process including IEP meetings, and require LCPS to provide documents produced in a form that parents can access and understand. Examples of these supports include supporting parents with disabilities through the use of interpreters or Braille and supporting parents who are not native English language speakers by providing translators and translated documents (including for PWNs, see Findings 4c).

SEAC has received numerous reports that these supports are not being provided for parents who need them or that the supports being provided are ineffective. SEAC is

concerned that, if there is any ambiguity that these supports must be provided in this alternate process, they will not be. SEAC received many community concerns regarding this policy that expressed a concern about equity, which is exacerbated for parents whose own special needs make them more vulnerable.

The School Board has repeatedly stated that it supports equity in education. The School Board should make it a clear and unambiguous requirement that appropriate equity supports shall be provided to ensure that all parent(s) and guardian(s) are able to participate in their children's education.

Recommendation 6: Add: "Prior Written Notice shall be provided prior to requesting parental consent."

Disposition: Approved unanimously.

Rationale:

The community expressed concerns about being asked for their informed consent to a document without a clear understanding of the changes being proposed. SEAC has received numerous reports that Prior Written Notice (PWN) practices are inconsistent throughout LCPS, and that the content and timing of PWNs is often not compliant with the regulations. (See Findings, 4c, for more information on PWNs).

Regardless of the regulatory requirements, as a matter of public policy, the School Board should clarify and require that the PWN be provided to the parents, along with the whole IEP document with changes clearly indicated (recommendation 4), **prior** to requesting informed parental consent. These are reasonable policy actions that can help openness and transparency and help to ensure that parents are able to understand the proposed IEP amendments and give their informed parental consent.

5. References and Documents Considered

[LCSB19] Loudoun County School Board. "Policy 5310: Special Education." April 23, 2019.
[https://go.boarddocs.com/vsba/loudoun/Board.nsf/files/BBUE5P6D2EBB/\\$file/5310.pdf](https://go.boarddocs.com/vsba/loudoun/Board.nsf/files/BBUE5P6D2EBB/$file/5310.pdf)

[LCPS20] LCPS Staff. "(Proposed) Policy 5310: Special Education." May 2020.
https://loudounseac.miraheze.org/wiki/File:Draft_policy_special_education_3.pdf

[LCPS20-1] LCPS Staff. "(Proposed) Policy 5310: Special Education." June 2020.
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[8VAC20-81-110] Virginia Department of Education. "Individualized Education Program." *Virginia Administrative Code*.
<https://law.lis.virginia.gov/admincode/title8/agency20/chapter81/section170/>

[8VAC20-81-170] Virginia Department of Education. "Procedural Safeguards." *Virginia Administrative Code*.
<https://law.lis.virginia.gov/admincode/title8/agency20/chapter81/section170/>

[VDOE13] Virginia Department of Education. "Guidance on Prior Written Notice in the Special Education Process." May 2013.
http://www.doe.virginia.gov/special_ed/regulations/state/procedural_safeguards_guidance_prior_written_notice_special_educ_process.pdf